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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,498	05/31/2001	Michael Peter Etgen	RSW920010060US1	8713

7590 06/30/2005

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EXAMINER	
WEST, JEFFREY R	

ART UNIT	PAPER NUMBER
2857	

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

EK

Office Action Summary	Application No.	Applicant(s)	
	09/871,498	ETGEN, MICHAEL PETER	
	Examiner	Art Unit	
	Jeffrey R. West	2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 March 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-16,18-29 and 31-41* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-16,18-29 and 31-41* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *20 September 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. In view of the Appeal Brief filed on March 21, 2005, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 3, 5-9, 12-16, 18, 20-24, 27-29, 31, 33-37, 40, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,892,917 to Myerson in view of U.S. Patent No. 6,112,238 to Boyd et al.

Myerson discloses a method in a data processing system for maintaining data integrity in logs, the method comprising reviewing a log (column 2, lines 49-52),

determining whether the log contains data loss (column 2, lines 16-21 and column 2, line 65 to column 3, line 8), wherein the determining step includes analyzing the log to determine whether a gap tolerance has been exceeded (i.e. the frequency of requests corresponding to the time gap between request is compared to a percentage of the reference frequency of requests) (column 8, line 66 to column 9, line 2) and adding data to replace the data loss in the log to increase integrity of the log if a determination is made that a data loss has occurred (column 2, line 65 to column 3, line 8 and column 9, lines 2-4).

Myerson discloses that the data added to replace the data loss comprises data derived from a prior log (column 4, lines 47-60).

Myerson discloses that the log includes data indicating at least one of requests, page views, and sessions (column 4, lines 35-37).

Myerson discloses that the log is a Web server log (column 2, lines 49-52).

Myerson discloses a method in a data processing system for analyzing a log, the method comprising analyzing the log to determine whether a time gap tolerance has been exceeded (column 8, line 66 to column 9, line 2), responsive to a determination that the time gap tolerance has been exceeded, generating an alert, and responsive to detecting the alert, adding data to the log to increase the data integrity of the log (column 2, line 65 to column 3, line 8 and column 9, lines 2-4).

Myerson discloses calculating a data integrity level for the log and comparing the integrity level to a threshold in order to determine if an acceptable level of integrity has been reached (column 8, lines 47-58).

Myerson also discloses that the method is implemented as a computer program product of corresponding instructions (column 4, line 40), in a system comprising a memory containing the instructions (column 4, lines 18-19), a processing unit for executing the instructions (column 4, lines 16-17), a communications unit (column 4, line 19), and a user interface (column 4, line 19), all connected to a bus (Figure 1).

As noted above, the invention of Myerson teaches many features of the claimed invention, and while the invention of Myerson does teach analyzing the log to determine whether a time gap tolerance has been exceeded, Myerson teaches determining whether a time gap tolerance has been exceed over the entire log, rather than allowing the user to define time segments to be analyzed individually.

Boyd teaches a system and method for analyzing remote traffic data in a distributed computing environment comprising storing the traffic data in a server web log (column 3, lines 46-48) the log including a set of time segments (i.e. slices) (column 3, lines 57-61) as well as allowing the user to define at least one of the time segments to perform analysis (column 9, lines 15-23). Boyd also teaches considering data in at least one time segment adjacent to a time segment being analyzed (column 10, line 58 to column 11, line 14).

It would have been obvious to one having ordinary skill in the art to modify the invention of Myerson to allowing the user to define time segments to be analyzed individually, as taught by Boyd, because, as suggested by Boyd, the combination would have provided means for allowing the user to select groups of the data provided by Myerson thereby allowing greater flexibility and speed in performing the

analysis (column 9, lines 23-27). Further, since the invention of Myerson does disclose that certain peak usage periods are more likely to have missing data (column 9, lines 7-15), the combination would have improved efficiency in the analyzing operation by allowing the user to analyze the most critical times for data loss (i.e. the peak usage periods).

4. Claims 4, 10, 19, 25, 32, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over and further in view of Myerson in view of Boyd and further in view of U.S. Patent No. 5,778,387 to Wilkerson et al.

As noted above the invention of Myerson and Boyd teaches many features of the claimed invention and while the invention of Myerson and Boyd does teach generating an alert to indicate the need for replacing the data loss using data derived from a prior log, the combination does not explicitly indicate that the alert is illustrated on a user interface to allow the user to select from a set of prior logs

Wilkerson teaches a database automated recovery system for recovering data for a log (column 7, lines 17-24) including a set of logs (column 7, lines 39-50) wherein a user interface alerts a user when data recovery is needed and allows the user to select from a set of logs to derive the data to be recovered (column 9, line 30 to column 10, line 18).

It would have been obvious to one having ordinary skill in the art to modify the invention of Myerson and Boyd to include specifically presenting the alert to a user through an interface and specifying that the appended data be derived from a set of

prior logs, as taught by Wilkerson, because, as suggested by Wilkerson, the combination would have given the user more control over the recovery process in order to insure that the desired data is recovered from whatever previous data set is most accurate to insure the reliability of the recovered data in a simplified manner (column 2, lines 31-45, column 9, line 30 to column 10, line 18, and column 10, lines 28-50).

5. Claims 11, 26, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over and further in view of Myerson in view of Boyd and further in view of U.S. Patent No. 5,931,912 to Wu et al.

As noted above, the invention of Myerson and Boyd teaches many of the features of the claimed invention and while the invention of Myerson and Boyd does teach generating an alert to indicate the need for replacing the data loss, which is carried out by a program to process the log, the combination does not specifically indicate that the alert is a flag used by the program to process the log.

Wu teaches a method in a data processing system for analyzing a log, the method comprising analyzing the log to determine whether a tolerance of a time gap has been exceeded and responsive to a determination that the time gap tolerance has been exceeded, generating an alert in the form of a flag used by a program to process the log (column 9, line 65 to column 10, line 9).

It would have been obvious to one having ordinary skill in the art to modify the invention of Myerson and Boyd to specifically indicate that the alert is a flag used by

the program to process the log, as taught by Wu, because the invention of Myerson and Boyd does teach a program that processes the log when a determination is made that a time gap tolerance has been exceeded and Wu teaches a well known method for indicating to a program the occurrence of a condition requiring appropriate processing to thereby carry out the operation of Myerson and Boyd (column 9, lines 65 to column 10, line 9).

Response to Arguments

6. Applicant's arguments with respect to claims 1, 3-16, 18-29, and 31-41 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

U.S. Patent Application Publication No. 2003/0038836 to Ronald et al. teaches a web map tool including means for allowing the user to specify a time segment to be analyzed.

U.S. Patent No. 5,412,801 to de Remer et al. teaches gap recovery for off-site data storage and recovery systems.

U.S. Patent No. 4,758,956 to Duffy teaches a system for replacing defective portions of log data.

U.S. Patent No. 6,341,310 to Leshem et al. teaches a system and methods for facilitating the viewing and analysis of web site usage data.

U.S. Patent No. 6,725,242 to Gardner teaches multiple-computer data processing system and method with time-versioned data storage.

U.S. Patent No. 5,675,727 to Watanabe teaches a difference recording apparatus having a processing unit, recoding unit, log update section, and log comparator using a classification key in a log of input data.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. West whose telephone number is (571)272-2226. The examiner can normally be reached on Monday through Friday, 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on (571)272-2216. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jrw
June 12, 2005

John Barlow
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